IN THE HIGH COURT OF JUDICATURE AT BILASPUR:
CHHATTISGARH

Division Bench

MISC. APPEAL NO. 847 OF 2005

APPEAL UNDER SECTION 173 OF THE MOTOR VEHICLES ACT, 1988

APPEAL VALUED AT RS. 3,93,500/- (RUPEES THREE LAC NINETY THREE THOUSAND) FIVE HUNDRED ONLY)

Appellant
Non-Applicant No. 2

National Insurance Co. Ltd.
Distt. Ahmadabad (Gujrat)
Through its Divisional Manager,
Divisional Office, The national
Insurance Co. Ltd., G.E. Road,
Raipur (CG)

Versus

Respondent No. 1.
Applicant

a/ Smt Dashri Bai, aged about,
30 years, Wd/o Dashrath Dhruv
Occupation – Housewife

b/ Poonam, aged about 11 years
D/o Late Shri Dashrath Dhruv

c/ Chumman, aged about 7 years
S/o Late Shri Dashrath Dhruv

d/ Ku. Chameli Dhruv, Aged about
4 years, D/o Late Shri Dashrath
Dhruv

e/ Ghuruwa Ram Dhruv, aged
about 55 years, S/o Late
Shri Dewan Dhruv

(All Residents of Vill. Majarkatta,
P.S. Gariaband, Distt. Raipur (CG)

P.R. No. 1759/25
Presented by Shri ...
dated 23/7/12

30/6/05

Respondent No. 2
Non-Applicant No. 1

Sourabh Builders A.T. Barodara
Through Sourabh S/o Navneet
Bhai, R/o of Vill. Majarkatta,
P.S. Gariaband, Distt. Raipur
(CG)

Being aggrieved by th

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XI-HC-78

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ...M.A. 847/05..... **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

DIVISION BENCH
HON'BLE SHRI A.K. PATNAIK, CJ.
& HON'BLE SHRI D.R. DESHMUKH, J.
19-09-2005

M. A. No.847 of 2005.

Heard Mr. N.K. Agrawal, Sr. Advocate with Mr. Q. Aziz, Advocate for the appellant.

This is an appeal against the award dated 13.05.2005 passed by the 13th Additional Motor Accident Claims Tribunal (FTC), Raipur in Claim Case No. 53 of 204.

The facts briefly are that on 29.05.2004 Dashrath Dhruv was driving a dumper No. GJ-A.T./2585 and the dumper dashed against a tree near the road. Dashrath Dhruv succumbed to the injuries and died on the spot. Respondent No.2 - Sourabh Builders was the owner of the said dumper and the appellant was the insurer. Respondents 1 (a) to 1 (e), the legal heirs of Dashrath Dhruv filed the aforesaid claim case before the Tribunal and the Tribunal awarded a sum of Rs.3,93,500/- in favour of the said claimants and held that the appellant – Insurance Company which had insured the said vehicle would be liable for the award.

On a perusal of the grounds taken in the appeal we find that the main ground taken in the appeal is that the driver of the vehicle was not having a valid and effective driving licence at the time of the accident. The other grounds are that the Tribunal lost sight of the material as per the defence taken by the appellant.

In this case no permission has been taken from the Tribunal to contest the claim on the grounds other than those mentioned under Section 149 (2) of the Motor Vehicle Act, 1988. No evidence at all has been adduced by the appellant – Insurance Company before the Tribunal.

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक MA 847/05 **सन् 200**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश -2-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	Even if there was a breach of the policy, it is settled by the Apex Court that the Insurance Company would still be liable for the compensation to the claimants. We, therefore, do not find any merit in this appeal and accordingly we dismiss the same. **Sd/-** **Chief Justice**	**Sd/-** **Dilip Raosaheb Deshmukh** **Judge**

Sudha